

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
DELAWARE

STATE FARM MUTUAL AUTOMOBILE)
INSURANCE COMPANY (as subrogee of)
Bessie Jarrett))
Plaintiff)
vs.) C.A. No.
UNITED STATES OF AMERICA (U.S.)
POST OFFICE))
& LESLIE RICH)
Defendants.)

COMPLAINT

Plaintiff State Farm Mutual Automobile Insurance Company ("State Farm") by and through its undersigned attorney, hereby alleges and states as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1346, as it is an action in which a U.S. Government agency is a defendant.
2. Venue properly lies in this Court under 28 U.S.C. § 1391(e), as defendants reside within the District of Delaware and/or the events giving rise to the action occurred within the District of Delaware.

The Parties

3. Plaintiff State Farm is an Illinois mutual insurance company collectively owned by its policyholders with its principal place of business in Bloomington, Illinois. State Farm is licensed and authorized to transact business in the State of Delaware.

4. On information and belief, defendant U.S. Postal Service ("U.S.") is a U.S. Government agency doing business in the State of Delaware and was the owner of the motor vehicle involved in this incident.

5. On information and belief, defendant Leslie Rich ("Rich"), is an adult individual, who at all times relevant to this Complaint, resided in the State of New Jersey and continues to reside in the State of New Jersey. Defendant Rich is subject to service of process in this jurisdiction pursuant to 10 *Del.C.* §§3104, 3112 in that Defendant Rich has consented to such service, or is deemed to have appointed the Secretary of State of the State of Delaware as their agent for acceptance of legal process in the State of Delaware.

Factual Allegations Common To All Counts

6. On or about May 14, 2007, State Farm had in effect a valid contract of automobile insurance with Bessie Jarret, providing benefits in accordance with Delaware law and insuring against the risk of loss to a motor vehicle owned by Ms. Jarret.

7. On the aforesaid date, the motor vehicle insured by State Farm, hereafter referred to as the "insured vehicle", was involved in a collision with a motor vehicle owned by defendant U.S. and operated by defendant Rich in his capacity as agent, servant, workman, or employee of defendant U.S., hereafter referred to as the "defendant vehicle". At the time of the accident, defendants U.S. and/or Rich, by themselves, or through their agents, were transacting business in the state of Delaware or were performing work in the State of Delaware or were contracting to supply services in the state of Delaware when their acts and/or omissions caused tortious injury in the state of Delaware.

8. On the aforesaid date, the insured vehicle was traveling northbound on Market Street at or near the intersection with 42nd Street in Wilmington, Delaware. The Defendant was traveling westbound on 42nd Street. The Defendant failed to yield to oncoming traffic while turning left to go southbound on Market Street and struck the insured vehicle causing damages.

9. Defendant Rich was negligent and careless and the sole cause of this incident in that defendant Rich:

- a. when intending to turn left, failed to yield the right-of-way to other vehicles which approaching from the opposite direction which are so close as to constitute an immediate hazard in violation of 21 Del. C. § 4132;
- b. failed to yield the right-of-way to all vehicles approaching on the roadway to be entered or crossed in violation of 21 Del. C. § 4133;
- c. did not operate their vehicle with a speed calculated to avoid collision with another vehicle in violation of 21 Del. C. § 4168(a);
- d. operated their vehicle recklessly with willful or wanton disregard for the safety of persons or property in violation of 21 Del. C. § 4175(a);
- e. operated their vehicle in a careless or imprudent manner, disregarding the hazards created other motorists and merging traffic, and did not operate their vehicle in a reasonably and prudently safe manner with respect to those conditions in violation of 21 Del. C. § 4176(a);

- f. failed to give full time and attention to the operation of their vehicle or maintain a proper lookout while operating their vehicle in violation of 21 Del. C. § 4176(b);
- g. was otherwise negligent and/or violated local laws and the laws of the State of Delaware, including, but not limited to: 21 Del. C. § 4132, 21 Del. C. § 4133, 21 Del. C. § 4168(a), 21 Del. C. § 4175(a), 21 Del. C. § 4176(a) and 21 Del. C. § 4176(b).

10. Pursuant to the aforesaid policy of insurance, State Farm became liable for damages that arose out of this incident.

11. Due to this incident, expenses were incurred for damages to the insured vehicle, towing, storage and car rental.

12. At the time of this accident, the defendant was a self insured entity providing protection against the risk of loss in connection with the operation of the motor vehicle that was owned and/or operated by the defendants.

13. Pursuant to the aforesaid policy of insurance, the Common Law and governing statutes, State Farm is subrogated for all money paid and seeks recovery of these sums totaling \$4,662.00.

COUNT I
Negligence
(State Farm vs. defendant Rich)

14. State Farm repeats and realleges paragraphs 1 through 13, as if set forth herein at length.

15. Defendant Rich is liable as the negligent driver.

WHEREFORE, State Farm demands judgment for \$4,662.00 plus costs of this suit, pre-judgment and post-judgment interest and such other and further relief as this Court may deem just and proper.

COUNT II
Negligence
(State Farm vs. defendant U.S.)

16. State Farm repeats and realleges paragraphs 1 through 15, as if set forth herein at length.

17. Defendant U.S. is liable under the doctrine of Respondeat Superior for the negligence of defendant Rich.

18. Defendant U.S. was negligent in entrusting this motor vehicle to someone who defendant U.S. knew or should have known was a dangerous, unlicensed, inexperienced or careless motor vehicle operator.

WHEREFORE, State Farm demands judgment for \$4,662.00 plus costs of this suit, pre-judgment and post-judgment interest and such other and further relief as this Court may deem just and proper.

SHIELDS & HOPPE LLP

By: /s/ Amanda L. H. Brinton
Amanda L. H. Brinton (#4523)
521 North West Street
Wilmington, DE 19801
(302) 994 4049

*Attorney for Plaintiff State Farm Mutual
Automobile Insurance Company*

Dated: April 23, 2008

JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

State Farm Mutual Automobile Insurance Company (as subrogee of Bessie Jarrett)

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

United States of America (U.S. Post Office) & Leslie Rich

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

| | | |
|---|--|---|
| (c) Attorney's (Firm Name, Address, and Telephone Number) | | Attorneys (If Known) |
| Amanda L. H. Brinton 521 North West Street Wilmington DE, 19801 | | |
| II. BASIS OF JURISDICTION (Place an "X" in One Box Only) | | III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) |
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) | Citizen of This State <input checked="" type="checkbox"/> PTF <input type="checkbox"/> DBF Incorporated or Principal Place of Business In This State <input type="checkbox"/> 4 <input type="checkbox"/> DEF |
| <input checked="" type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) | Citizen of Another State <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| | | Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|--|--|--|--|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability | <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury | <input type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark |
| REAL PROPERTY | CIVIL RIGHTS | PRISONER PETITIONS | LABOR | SOCIAL SECURITY |
| <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 449 Other Civil Rights | <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition | <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations | <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWV (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) |
| | | | FEDERAL TAX SUITS | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 |
| | | | | <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions |

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

| | | | | | | |
|---|---|--|--|---|---|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or <input type="checkbox"/> 5 Reopened | Transferred from another district (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge |
|---|---|--|--|---|---|---|

VI. CAUSE OF ACTION (See the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Subrogation in relation to motor vehicle tort

| | | | |
|-------------------------------------|--|-----------------|---|
| VII. REQUESTED IN COMPLAINT: | <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 | DEMAND \$ _____ | CHECK YES only if demanded in complaint: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
|-------------------------------------|--|-----------------|---|

| | | | |
|-------------------------------------|--|---------------------|---------------------|
| VIII. RELATED CASE(S) IF ANY | | (See instructions): | |
| | | JUDGE _____ | DOCKET NUMBER _____ |

| | | | |
|---------|---------------------------------|--|--|
| DATE | SIGNATURE OF ATTORNEY BY RECORD | | |
| 4/29/08 | <i>Amanda L. H. Brinton</i> | | |

| | | | | | |
|---------------------|-----------------|--------------|--------------------|-------------|------------------|
| FOR OFFICE USE ONLY | RECEIPT # _____ | AMOUNT _____ | APPLYING IPP _____ | JUDGE _____ | MAG. JUDGE _____ |
|---------------------|-----------------|--------------|--------------------|-------------|------------------|